UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/CN.9/SR.635
10 May 1999

ORIGINAL: ENGLISH

UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

Thirty-first session

SUMMARY RECORD OF THE 635th MEETING

Held at Headquarters, New York,
on Tuesday, 2 June 1998, at 3 p.m.

Chairman: Mr. MAZILU (Romania)

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PRIVATELY FINANCED INFRASTRUCTURE PROJECTS (continued)

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98-80727 (E)

The meeting was called to order at 3.05 p.m.

PRIVATELY FINANCED INFRASTRUCTURE PROJECTS (continued) (A/CN.9/444/Add.2)

1. The CHAIRMAN invited the Commission to resume its consideration of draft chapter I of the legislative guide on privately financed infrastructure projects (A/CN.9/444/Add.2).

Paragraphs 16-21

2. Mr. GILL (India), referring to paragraph 20, stressed the importance of the powers of public agencies or State organs to control compliance with safety regulations and to impose sanctions in the event of non-compliance. The Bhopal gas disaster alone was sufficient proof of the truth of the statement that safety was vital.

Paragraphs 22-27

3. Mr. KASHIWAGI (Japan) said with reference to recommendation 8 that with a plethora of governmental agencies and authorities involved, obtaining concessions and the various forms of approval needed was a time-consuming and expensive process. Therefore, what must be emphasized in paragraphs 22 and 23 was the key to a successful concession-awarding procedure: simplicity.

4. MR. RESTREPO-URIBE (Colombia) said that the question of administrative coordination of projects was sensitive in that local, national and regional jurisdictions at various levels tended to have interests that conflicted. Therefore, rather than suggesting some kind of centralized agency, as in paragraph 22, for processing applications, reference should be made to the need to provide interested parties with clear and comprehensive information about the powers and attributes of the various authorities involved in the administrative coordination of procedures for issuing the necessary licences and authorizations for their projects.

5. Mr. RENGER (Germany) said that as administrative coordination was vital for the success of any project, the issue was the most important one in the context of the agenda item under discussion. Administrative coordination was needed throughout a project. However, the details depended on the kind of project, on the constitutional situation in the host country and on all the parties involved. He therefore supported the previous speaker's suggestion that provision of clear and comprehensive information was the key. Even so, the process of bringing a project to fruition would always be burdensome, the more so the more authorities were involved.

6. Ms. NIKANJAM (Islamic Republic of Iran) said with reference to paragraph 27, which contained the phrase "for constitutional or other reasons", that in her delegation's opinion constitutional reasons should not be set on the same plane as other, organizational reasons. If constitutional reasons were a barrier to a government's issuing a licence, it could not then provide any assurance that a licence would be granted, so there would be no point providing

assistance to the project company in obtaining one: the constitution would have to be changed first.

7. Mr. ESTRELLA FARIA (International Trade Law Branch), responding to the point raised by the representative of the Islamic Republic of Iran, said that the intent of paragraph 27 was to indicate that if a government was not in a constitutional position to centralize the issuance of licences or to entrust a single body with a coordinating function, it would be advisable for it to consider providing some assurance that it would nevertheless assist the project company in obtaining the necessary licences.

8. Mr. KOVAR (United States of America) said that the principles of simplicity, as mentioned by the representative of Japan; coordination between agencies down to the local level; consistency of actions between agencies; and the availability of information, as mentioned by the representative of Colombia, could all be termed aspects of transparency or openness and were all important.

9. Ms. GUREYEVA (Russian Federation) said the terms used in the paragraphs under discussion needed to be made more specific. Such expressions as "general enabling legislation" and "general legislation" in paragraph 23, followed by "the legislation" in paragraph 24, created more problems than solutions; in paragraph 26 the expression "early assessment" was also vague.

Paragraphs 28-39

10. Mr. RESTREPO-URIBE (Colombia) said that reference should be made in the paragraphs under discussion to norms developed in the context of international integration agreements; in some circumstances, the provisions, practices and policies found in or consequent on such subregional or regional integration agreements could be applicable nationally, as in Colombia, where foreign investment regulations, intellectual property rights and the like were governed by decisions of the Andean Board of the Cartagena Agreement.

11. In the context of company law, clarification should be given that in some cases concessionaires were subject not only to company law but, under the conditions of their concession, must meet other financial or technical conditions and requirements, as was the case in Colombia for companies operating seaports or providing services to domestic residences.

12. Turning to paragraph 36, on rules and procedures on expropriation, he noted the statement that the host Government usually assumed responsibility for providing the land required for the implementation of a project; however, there were exceptions to that general rule and it happened all too often that concessionaires found themselves bearing additional costs as a result of insufficient information about the risks in terms of time and resources, and about the legal redress they might seek, when forced to assume unwarranted liabilities. Therefore, he saw a need for the paragraph to be redrafted to cover the circumstance where it was not the host Government but the concessionaire who was responsible for acquiring the land for a project.

13. He saw a need also for a new paragraph about the foreign exchange regime that would apply to a given project. Although the issue was covered to some

extent in paragraphs 29 to 32 under the heading "Investment protection" and in paragraphs 55 to 57 under the heading "Tax law", a more specific reference was needed because of the great importance of the issue for some projects.

14. Specifically in respect of tax law, he noted that some countries had adopted the practice of entering into agreements with foreign investors which guaranteed stability and clarity in the taxation regime that would apply to their project. That approach could be the right one for some countries and should be mentioned in the text.

15. The tax law information provided to concessionaires was also often inadequate, even though such information might be of assistance to concessionaires and might even prove to be an incentive. The need for tax information to be provided should therefore also be mentioned in the text.

16. Particular emphasis should be given to an issue currently absent from the text: legal instruments relating to transparency and combating corruption. In that context, the Commission might look at the relevant texts from the Organisation for Economic Cooperation and Development (OECD), the International Chamber of Commerce and non-governmental organizations working in that area.

17. Mr. ESTRELLA FARIA (International Trade Law Branch) said that the secretariat would see how the points raised by the representative of Colombia, particularly those on taxation and exchange stabilization, might be incorporated into the text.

18. He pointed out that the question of expropriation was to be dealt with in greater detail in a later chapter of the guide, and the purpose of paragraphs 36 and 37 was merely to flag the importance of legislation for simple and easy expropriation procedures in the context of privately financed infrastructure projects.

19. Mr. ALABRUNE (France) referred to the third sentence of paragraph 37, concerning delays in expropriation where court proceedings were involved. The wording as it stood was unfortunate as it included no mention of compensation for expropriation, which in France was determined, after the administrative phase of the expropriation procedure had been carried out, in special court proceedings and subject to constitutional constraints whereby the judge was the guarantor of respect for private property rights.

20. Corruption was an important issue that must be covered in the guide at some point. In that connection, he supported the representative of Colombia, with the exception that before recommendations by non-governmental organizations were examined, the Commission should look at current national legislation and the various anti-corruption agencies. He suggested that in addition to the OECD text, the Commission might look at the instrument on corruption being drafted in the Council of Europe.

21. Mr. GILL (India) said, with reference to paragraphs 29 to 31, on investment protection, that in most European countries, and also in India, investment protection was effected on a bilateral basis whether government to government or between private finance corporations. In practice, in negotiations on such

arrangements all the subsidiary laws and regulations covered in the section of the document currently under discussion were taken into account.

22. Therefore, he wondered why amendments to laws were being proposed in the document whereas the necessary arrangements were universally agreed within existing local frameworks on both sides. Also, it would in any case be foolish not to ensure that one's investments were adequately protected. To propose changes in legislation would be to delve too deeply into detail in the case in point; moreover, it would be redundant because almost every country was well aware of current practice in the areas covered.

23. Ms. GIOIA (Italy), referring to paragraphs 38 and 39, said that, in respect of protection of intellectual property rights and enforcement of those rights, national and foreign private investors needed different treatment because national investors should already be adequately protected by national laws. For foreign investors, it must be remembered that patent protection applied in the first place in the country granting that protection. Even in the European Union, where patent law harmonization was relatively advanced, no patent was valid everywhere in the Union. The difference between national and foreign investors in respect of patent law should therefore be made explicit in the subsection on intellectual property law.

24. A solution might be found in the suggestion in paragraph 39 that the Commission might consult with the World Intellectual Property Organization in order to find an international solution to the problem.

25. Ms. MUSOLINO (Australia) said that the description of the OECD multilateral agreement on investment in paragraph 32 should be redrafted in such a way as not to focus directly on dispute settlement. While the OECD agreement did indeed deal with dispute settlement, that was not its main focus; therefore, she proposed that the reference to dispute settlement should be moved to the end of the paragraph and reworded to read "and to provide dispute settlement options".

26. In paragraph 39, it would be helpful to amend the phrase "international agreements regarding the protection and registration of property rights" to read "international agreements regarding the recognition, protection and registration of property rights".

27. Mr. SHANKS (United States of America) said that the title of section B.1 "Investment protection", should be amended so as to read "Investment protection and promotion", to reflect the actual scope of subsection 1.

28. The reference at the end of paragraph 29 to companies' access to foreign exchange and their ability to transfer abroad or repatriate their profits should include mention of companies' need to remit foreign exchange abroad in order to repay project-related loans.

29. For the same paragraph, the Commission might wish to refer to the possibility of indexation of local currency payments, which frequently became an issue as private investors faced the danger of possible devaluation of local currencies.

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30. The title of section B.2, "Property law", should also be broadened to "Property law and security interests" or some other such term, again in order to reflect the actual scope of the paragraphs concerned.

31. He expressed his delegation's support for the representatives of France and Colombia in respect of adding a reference to the OECD Convention of 17 December 1997 on Combating Bribery of Foreign Public Officials in International Business Transactions.

32. Turning to paragraph 34, he said that the concept of "reasonable proof" that ownership of land would not be subject to dispute needed to be strengthened: the words "clear evidence" might be appropriate.

33. In section B.3, "Rules and procedures on expropriation", his delegation believed that "expropriation" was not the best term and would prefer reference to the concepts of eminent domain, condemnation or some other suitable term. Also, his delegation doubted the need to discuss expropriation in the document; however, if the secretariat insisted on so doing, then there would be a need to refer to an appropriate international standard of prompt, adequate and effective compensation for expropriated property.

34. In response to the points raised by the representative of Italy relative to section B.4, "Intellectual property law", he said that his country's position was that Governments, if they were interested in attracting foreign private investment for infrastructure projects, should consider strengthening their domestic intellectual property protection legislation if such strengthening was needed.

35. Mr. MORENO RUFFINELLI (Paraguay) supported a rapid expropriation process that would favour private investment. Noting that, in his country, expropriation was subject to national legislation and pre-payment, he proposed adding the following clause to the final sentence of paragraph 37: "provided that this is in accordance with the legislation of the country in question".

36. Mr. CHOUKRI (Observer for Morocco), referring to the second sentence of paragraph 29, said that the draft should emphasize the legal recourse of investors, including with regard to the amount of compensation, in instances where the laws on nationalization and dispossession were violated. In developing countries, in particular, that would increase stability and control the problem of emigration. Local labour should be used as a matter of priority. The right of investors to recover their investments should not be dealt with in the paragraphs in question.

37. Ms. ARBELAEZ (Colombia), under section B on other relevant areas of legislation, stressed the need to tighten State supervision and control over public service providers, particularly with regard to privately financed infrastructure projects. In that connection, she said that consumer protection laws should be strengthened in order to protect citizens against monopolies.

38. Mr. LEON (Colombia) suggested, under the same section, mentioning the legislation adopted by some countries, such as Colombia, for the protection of their indigenous populations. In recent years, Colombia had been adopting

environmental and other legislation for the protection of such populations and their cultures against harmful aspects of development. His delegation would submit a summary of its views in that regard.

39. Mr. AL-NASSER (Observer for Saudi Arabia) said that paragraph 31 should also discuss the reinvestment of profits in the host country, since the repatriation of proceeds of investment in a country of origin could have an adverse impact on its economy. The first sentence of paragraph 36 implied too great a responsibility for the State with regard to the insurance costs of implementing the project. Noting that, in Saudi Arabia, investors were entitled to lend or sell property to foreigners, he said that the investor should be made to assume a portion of such costs.

40. Mr. AL-ZAID (Observer for Kuwait) said that the second sentence of paragraph 29 should also stress the importance of using local currency and local labour and of making purchases in local markets. Furthermore, a reference to tax exemption would reassure investors.

Paragraphs 40 to 49

41. Mr. TELL (France) said that the fundamental question of loan guarantees should be developed in greater detail, preferably in a separate chapter. Referring to the second sentence of paragraph 40, he specified that traditionally a mortgage was a guarantee on real property; it applied to personal (movable property), such as ships or aircraft, only in exceptional cases. A mortgage was generally a long-term guarantee whose source of reimbursement was the evolution and end-product of the project itself. It was rarely equal to the amount of the debt and would not be worth very much if the project failed. In that context, the secretariat should specify the meaning of physical assets of the project company and those physical assets to which mortgages would apply. It should also clarify the hierarchy of the various types of guarantees. He believed that the property on which public service facilities were located could not be mortgaged, as it belonged to the licensor.

42. Ms. FOLLIOT (France) said that, under French law, licences for public works projects, i.e., projects executed in the public domain, were inalienable, meaning that they could not be sold, expropriated, or subject to other procedures under civil law. Therefore, the paragraph should specify the type of property in question - e.g., assets or real property - and indicate that mortgages were permissible only under certain types of contracts where the property was not in the public domain.

43. Mr. ESTRELLA FARIA (International Trade Law Branch) said that the draft was intended to draw attention to the distant relationship between security on concessions and the general regime in a given country. Within that context, it discussed mortgages and charges in general terms. He proposed deferring the discussion of securities in draft agreements, which was covered in chapter IV (A/CN.9/444/Add.5). The problem of terminology in chapter I, pointed out by the French delegation would be addressed.

44. Mr. ADENSAMER (Austria) suggested deleting the fourth sentence of paragraph 40, whose meaning and purpose were unclear. He wondered what conclusion was to

be drawn from that sentence, since there was no possibility of harmonizing the various legal systems of host countries. The final sentence, on the importance of ensuring legal protection of secured creditors, was sufficient in itself

45. Perhaps the first sentence of paragraph 41 should refer to "registers" rather than the "central register". It was not apparent that all countries had a central register.

46. Mr. WALLACE (United States of America) noted that the reference to a favourable legal framework in paragraph 28 implied, particularly within the context of reform, the need to amend legislation in order to promote private investment in infrastructure. The second sentence of paragraph 40 should be developed further; in that context, the hierarchy of the types of security might be rearranged. For instance, the pledge of shares was a widely used form of security, and security interests could extend to tangible assets other than accounts receivable, such as insurance proceeds or even recovery in civil litigation.

47. Security law was primarily intended to benefit lenders, who frequently demanded the right to represent the borrower, i.e., the project company. Although the question of assignment was dealt with in chapter IV, it might be useful to mention it in chapter I as well. With regard to paragraph 45, he said that the work of UNIDROIT on security interests in mobile equipment might be of relevance to the Commission's discussion of privately financed infrastructure projects. Noting the reference to bonds, debentures and other securities under company law (para. 47), he said that the development of certain forms of private financing might result in the creation of new capital markets that would need to be regulated. Reference should be made to that possibility. Lastly, with regard to the final sentence of paragraph 49, he noted that in some, though not all, systems of company law, company directors - and not only shareholders - could enter into management contracts. That should be indicated in the draft.

48. Mr. GILL (India) requested clarification as to whether the issue was one of financial or legal security. It would be particularly important to make that distinction in cases where third-party receivables were transferred to private individuals rather than Governments.

49. Mr. OLIVENCIA RUIZ (Spain), referring to paragraph 40, noted that the study of real rights to security in varying systems of public law was extremely problematical. He agreed with the representative of Austria that not all countries had central registers (para. 41); for example, his own country did not. Since it was impossible to specify all types of guarantees, it should be sufficient to ascertain the existence of arrangements for the adequate protection of third-party creditors in various countries.

50. Under the heading of company law, he noted that project companies were usually but not necessarily consortia; they could also be a single entity, whether national or foreign, previously established in the host country, or an entity established outside the host country whose legal personality was recognized by the host country. Specifying a particular legal structure would only increase the risk of error. The first sentence of paragraph 46 should therefore read: "in most cases, there will be a consortium and its members will

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create a new entity". Similarly, the repeated use of the term "shareholder" gave rise to confusion, since it could refer to shareholders in, inter alia, joint stock companies, limited partnerships and limited liability companies. In his country, a distinction was also made between permanent companies and temporary unions of companies set up for a specific purpose, such as construction. Since a concessionaire entity often gave rise to an independent legal entity in the host country, a catalogue of different types of companies and the extent of the members' liability in each case would be useful. He stressed the need for specific regulations concerning corporate governance (through boards of directors or other administrative bodies), the protection of minority shareholders with respect to majority shareholders and cases of conflict of interest. The legal structure, e.g., the type of company, was less important than whether or not such requirements were fulfilled, particularly within the context of privately financed infrastructure projects.

51. Mr. MARADIAGA (Honduras) wondered whether the concerns expressed by the representatives of Austria and Spain with regard to a central register (para. 41) were mitigated by the phrase "or other public register". Referring to paragraph 46 under company law, he said that he agreed with the representative of Spain that consortia were not the only companies involved and that the language of the draft should be broader. In order to guard against corruption, the paragraph should also specify the liability, including the potential criminal liability, of the consortium's or company's management. Paragraph 49 should guarantee the rights of third-party contractors as well as the rights of minority shareholders.

The meeting was suspended at 4.35 p.m. and resumed at 5.05 p.m.

52. Ms. GIOIA (Italy) said that she wondered why paragraphs 46 to 49 alluded to only one form of legal entity that could undertake projects in a host country, whereas that was not the only possible model. Similarly, no emphasis had previously been placed on the fact that legal entities should be established as such in their respective host countries.

53. Mr. ESTRELLA FARIA (International Trade Law Branch) assured the representative of Italy that the text would be amended to reflect the fact that not all project companies were corporations. He also pointed out that paragraphs 22 and onwards of document A/CN.9/444/Add.5, dealt with the issues which determined whether or not concessionaires were established as legal entities in a host country.

54. Mr. CHOUKRI (Observer for Morocco) said that since there could be several registers that related to commercial entities within a country or city, in the first sentence of paragraph 41, "central register of title or other public register" should be amended to read, "central register of title or another local or public register".

55. The second sentence of paragraph 46 should begin with the following wording: "It is therefore important for the host Government to have adequate company laws including modern provisions on essential matters such as the establishment of companies, agencies and branches ...".

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56. He agreed entirely with the representative of Honduras, and suggested that the first sentence of paragraph 48 should be amended to read, "Modern company laws often contain specific provisions regulating the conduct of managers and civil and criminal liability for companies and for others to exclude any conflicts of interest."

57. Mr. LAMBERTZ (Observer for Sweden) said that the wording of legislative recommendation 12 implied that security law was not of direct relevance to privately financed infrastructure projects. He believed that legislation which provided effective security for credits and other financing was of paramount importance.

58. He suggested that legislative recommendation 12 should be expanded to include other aspects of section B of document A/CN.9/444/Add.2, such as investment protection and company law.

59. He shared the views expressed by the representatives of Austria and Spain, and the Observer for Morocco, on paragraphs 40 and 41. The penultimate sentence of paragraph 40 should be deleted or amended, and paragraph 41 should be amended to include the possibility of local registers.

60. Mr. TELL (France) said that his delegation was not pleased with the general treatment of document A/CN.9/444/Add.2. The subsection on security law should be amended to clearly address the need for host countries to enact legislative provisions on securities. It would also be advisable to draw a distinction between various types of securities.

61. Pending further discussion on the issue of securities in the consideration of document A/CN.9/444/Add.5, he suggested that in the French text the expression "droit de propriété" should be replaced by "droit réel" in the second sentence of paragraph 41.

62. Mr. WALLACE (United States of America) stressed the importance of security law to privately financed infrastructure projects. Taking up the point made earlier by the representative of India, he wondered whether the Secretariat could find a more suitable name for subsection 5, "Security law", which would give a clearer idea of the scope of the subject.

Paragraphs 50 to 54

63. Mr. WALLACE (United States of America) said that since paragraph 50 concerned accounting practices, yet was included under section B, entitled "Other relevant areas of legislation", it would be appropriate to add an introductory sentence indicating how the law applied to accounting.

64. Referring to the first sentence of paragraph 51, he stressed the difficulties encountered in seeking contractual solutions to problems arising in a number of countries, particularly in those under the administrative law regime. There was likewise an urgent need for a system of enforcement, either through the judiciary, arbitration or other methods of resolution.

65. Mr. TELL (France) said that his delegation was concerned by the fact that mention had repeatedly been made of countries governed by administrative law, and of countries which had legislative restrictions on the arbitration of disputes between public legal persons and individuals.

66. In his opinion, paragraph 51 related to commercial contract law and it was certainly a question of the contractual environment in which project companies worked to set up projects with entities in host countries. France fully understood the need for domestic legislation to include provisions facilitating the conclusion of contracts in private law, enabling the parties to execute those contracts in the event of default. If there were difficulties arising outside the scope of paragraph 51, those problems could be discussed at the appropriate time. However, his delegation was interested in having examples of the problematic situations to which earlier reference had been made.

67. Mr. WALLACE (United States of America) said that the contractual arrangements for infrastructure projects could be considered as a matrix of contracts, which might include such models as build-operate-transfer (BOT) and build-operate-own-transfer (BOOT). At the core of each model, however, was an agreement between the host Government and the project company. The courts in a number of civil law States had ruled that any such agreement must be subject to domestic administrative law, and one of the practical consequences of that ruling was that Governments were unwilling to agree to submit disputes to arbitration, since the law itself provided specific remedies, penalties and rights. It would be pure coincidence if both parties were to agree in negotiations to be bound by the provisions of the applicable administrative law. That was the issue addressed in paragraph 51, which stated that the domestic law on commercial contracts should provide adequate solutions to the needs of the project company and the lenders, including flexibility in devising contracts as needed for the construction and operation of the infrastructure facility.

68. Mr. RESTREPO-URIBE (Colombia) agreed with the representative of the United States on the need for flexibility in the contractual relationship between the host Government and the concessionaire. It might therefore be useful to include a reference to the UNIDROIT principles governing international contracts, which generally reflected the practices and policies followed by States in the field of contract law.

69. Mr. GILL (India) said that, on the question of how the claims of secured creditors were ranked, India was of the view that the host Government should be given priority in any insolvency proceedings involving the competing claims of secured creditors.

70. Mr. CHOUKRI (Observer for Morocco) said that it might be useful to insert after the words "to take the measures required" in the first sentence of paragraph 53 the words "to assist companies in difficulty and to permit out of court settlement so as".

71. Mr. HERMANN (Secretary of the Commission), referring to an earlier suggestion by the representative of Colombia, said that the Secretariat had not included a reference to the UNIDROIT principles because its intention had been

merely to review the legislative framework and not to place limitations on the freedom of the parties to reach their own agreements.

72. Mr. OLIVENCIA RUIZ (Spain) said that the insolvency of an infrastructure operator or public service provider created three problems: ensuring the continuity of the project; ranking the claims of secured creditors; and the adoption of legislation to govern cross-border insolvency proceedings. It might be useful to address each of those issues in a separate paragraph of the draft guide.

73. On the subject of ensuring the continuity of the project, he believed that the public interest in continuity was more important than the interest of the private investor; the regime governing the project company should therefore include special provisions for such continuity.

74. With regard to the ranking of the claims of secured creditors, the guide should clearly establish whether secured creditors should be given priority over other creditors. As the representative of France had pointed out, domestic legislation in some States provided that, even in the case of mortgage-backed securities, other creditors could be given priority.

75. He agreed that the UNCITRAL Model Law on Cross-Border Insolvency should govern foreign insolvency proceedings, which were becoming more and more frequent in an increasingly global economy.

76. Ms. NIKANJAM (Islamic Republic of Iran) asked whether the guide was recommending that standard accounting practices should be incorporated into domestic legislation and whether it might not be useful to include examples of such standards in the guide. She also wondered whether the provisions of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) specifically governed the importation of large quantities of supplies and equipment. Lastly, she wished to draw attention to the difficulty inherent in securing the cooperation of foreign judicial authorities in cases of cross-border insolvency, since many States had not addressed the issue in their domestic legislation.

77. Mr. ESTRELLA FARIA (International Trade Law Branch), responding to the first question posed by the representative of the Islamic Republic of Iran, said that the purpose of the paragraph was simply to draw attention to other relevant fields of law and not to provide extensive guidance on accounting practices. If, however, the Commission considered it useful, then the Secretariat could include in the paragraph a reference to international accounting standards.

78. Mr. TELL (France) asked whether the contracts mentioned in paragraph 51 referred to agreements between public entities and concessionaires or to agreements between concessionaires and their suppliers.

79. Mr. ESTRELLA FARIA (International Trade Law Branch) said that contracts referred to the agreements between concessionaires and their suppliers of materials and services.

80. Mr. RENGER (Germany), referring to the suggestion made by the representative of Spain that paragraph 53 should be redrafted as several separate paragraphs, said that if that proposal was accepted he would suggest the inclusion of a further clarification, namely, whether lenders were entitled to keep the payments received during the critical period prior to the opening of insolvency proceedings.

The meeting rose at 6 p.m.